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% 10.01.2007

Present: Mr.Amit Gaurav, Adv. for petitioner

+CM(M) No.39/2007
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1. Sum of Rs.5,000/- per month has been awarded as monthly maintenance to the wife.

2. Learned Trial Judge has held that the wife has no independent source of income. The Court has disbelieved the version of the petitioner pertaining to his salary. The findings of the learned Trial Judge are as under:-

> "The applicant/wife has taken the plea that the M/s.Perfect Electric Company is being run by the relatives of the non-applicant/husband and in collusion with the non-applicant/husband they have given this certificate. I have perused the bank statement also. The bank statement which has been filed by the non-applicant/husband shows that it is a saving account but the non-applicant/husband has also taken the facility that amount which is deposited in the saving account is automatically transferred in the FDR for the period of 12 months. The deposit made by the non-applicant/husband shows that he has sometime deposited Rs.4,500/- and sometimes Rs.5,000/-. If his total salary is Rs.4,500/- then he has failed to show as to how he is managing his daily affairs if he is depositing the whole amount in the bank. The non-applicant/husband has also taken the plea that he is looking after his old parents also then, in no circumstances, he can deposit Rs.4,500/- p.m. or more than that amount in the bank. In no circumstances, it can be believed that he will not spend any amount on

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himself or he has no expenses. Furthermore, he has taken the plea that he has the old parents who are suffering from various diseases, in such circumstances, he has failed to show how he has been able to deposit the amount shown in his bank statement. Furthermore, from this statement it is clear that he has received amount from the State Bank of Bikaner and ABN Amro Bank, Vyasa Bank also."

3. In the grounds of appeal, inter alia, justifying the findings, it is pleaded as under:-

> "(iii) That the petitioner submits that his family is so poor that they try to save every penny so that the same could be used in rainy days. The petitioner literally has no personal expenses except to & fro bus fare for commuting to his office and back home. The petitioner has no other expense. He is a vegetarian, non-smoker and teetotaler. He has no mobile phone or a scooter or motorcycle as he just cannot afford that."

4. If the petitioner can save for his rainy day, it has to be after he is able provide for his estranged wife for her daily needs.

5. I find no merits in the petition.

6. Dismissed.

January 10, 2007
dk

PRADEEP NANDRAJOG, J